

SENATE BILL REPORT

E2SHB 2078

As Reported by Senate Committee On:
Human Services & Corrections, March 26, 2009

Title: An act relating to persons with developmental disabilities who are in correctional facilities or jails.

Brief Description: Concerning persons with developmental disabilities who are in correctional facilities or jails.

Sponsors: House Committee on Health & Human Services Appropriations (originally sponsored by Representatives Roberts, O'Brien, Walsh, Jacks, Appleton, Goodman, Dickerson, Green, Kagi, Chase, Wood, Kenney and Haler).

Brief History: Passed House: 3/11/09, 96-0.

Committee Activity: Human Services & Corrections: 3/20/09, 3/26/09 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: In 2003 the Legislature required the Criminal Justice Training Commission to develop a training session on law enforcement interaction with persons who suffer from mental illness and who have developmental disabilities. At the minimum, the training was required to address the following:

- the cause and nature of mental illnesses and developmental disabilities;
- how to identify indicators of mental illness and developmental disabilities;
- how to respond appropriately in common situations;
- conflict resolution and de-escalation techniques for potentially dangerous situations involving persons with mental illness or developmental disabilities;
- appropriate language use;
- alternatives to lethal force; and
- community and state resources available to persons who have a mental illness or developmental disabilities.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The statute passed by the Legislature in 2003 did not include a requirement for training to personnel for city and county jail facilities.

Summary of Bill (Recommended Amendments): Within state and federal funds appropriated or otherwise available, a work group is established, co-chaired by the Developmental Disabilities Council (DDC) and the Washington Association of Sheriffs and Police Chiefs (WASPC), to address issues relating to persons with developmental disabilities who are confined in correctional facilities. The work group must consult with:

- the Department of Corrections (DOC);
- the Department of Social and Health Services (DSHS);
- the Washington Traumatic Brain Injury Strategic Partnership Advisory Council;
- Disability Rights Washington;
- consumer advocates; and
- other interested organizations.

By December 1, 2009, the work group must develop recommendations and report to the Legislature regarding:

- expeditiously reviewing and determining eligibility for developmental disabilities services for an offender with developmental disabilities prior to that offender's release;
- the role of the DSHS in providing consultation and technical assistance for reasonable accommodations for offenders in correctional facilities who have a developmental disability;
- increasing the authority of the courts to order alternatives to confinement prior to trial or following conviction where the sentence is 12 months or less;
- establishing a diversion option under the Sentencing Reform Act for persons with developmental disabilities;
- the feasibility of developing and adopting law enforcement training for responding to persons with developmental disabilities analogous to crisis intervention training for response to persons with mental illness;
- the feasibility of adopting standardized statewide screening and application practices and forms to facilitate a person's application for medical assistance;
- the need and feasibility of applying a similar screening tool and training for corrections staff to be used for persons with developmental disabilities who are confined with DOC; and
- the feasibility of developing a screening tool and training for addressing confined persons with traumatic brain injuries.

By July 1, 2010, the work group must jointly develop a simple and cost-effective screening tool to assist in the identification of offenders with the most common types of developmental disabilities who are confined in jails. The work group must also develop a model policy for the use of the screening tool by jail staff and how to accommodate persons with developmental disabilities during their confinement.

The Act expires on December 1, 2010.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): The requirement that jails implement a

screening tool and training for identifying and assisting confined persons with developmental disabilities by 2011 is removed. The work group must examine the feasibility of implementing a similar tool to identify those with developmental disabilities confined with DOC and the feasibility of developing a screening tool for identifying persons with traumatic brain injuries.

Rather than creating a new chapter in the RCW, the Act expires December 1, 2010.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Engrossed Second Substitute House Bill: PRO: A story was relayed regarding an individual whose mental capacity remained at that of a 12-15 year old because of a developmental disability. The individual, unfortunately, became involved with law enforcement when he gave a note to a bank teller pretending to be a bank robber. While in the Snohomish County Jail, he made new friends and learned new things and thereafter began taking drugs. As a result of his drug activity, he is now spending three years in prison. We need to find new ways of addressing these individuals so this doesn't happen. This bill is the first inch on the yardstick of change to ensure that we aren't doing more harm than good when interacting with this population in corrections.

The DDC is willing to do all it can to help with a screening tool. At one time, law enforcement did not have tools for dealing with this population either. Many people have collaborated to get the bill where it is now. Groups are already looking at what other states are doing in this respect to assist with the work group's task.

OTHER: Local corrections supports this policy but would like some technical corrections to the terminology. The bill also needs some clarity as to whether it applies to the Department of Corrections. Currently, an individual who has developmental disabilities is in one of the county jails. The problem has been identified appropriately by the facility, but yet supporting agencies are in disagreement over who would provide support in this instance. The recommendations are going to be very important to address what happens after corrections identifies an individual using the screening tool

Persons Testifying: PRO: Representative Roberts, prime sponsor; Donna Patrick, DDC; Diana Stadden, Arc of Washington; David Lord, Disability Rights, Washington.

OTHER: JoAnna Arlow, WASPC.